

NEW YORK
state department of
HEALTH

Public

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

December 31, 2012

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Richard Ellenbogen, M.D.
9201 Sunset Boulevard
Suite 202
Los Angeles, CA 90069

Re: License No. 104764

Dear Dr. Ellenbogen:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 12-284. This order and any penalty provided therein goes into effect January 7, 2013.

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

REDACTED
Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Mark Levin, Esq.
11377 West Olympic Boulevard, Fifth Floor
Los Angeles, CA 90064-1683

IN THE MATTER
OF
RICHARD ELLENBOGEN, M.D.

CONSENT
ORDER

Upon the application of **RICHARD ELLENBOGEN, M.D.**, (Respondent), in the attached Consent Agreement, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

ORDERED, that this Consent Order shall be effective upon issuance by the Board, either by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, or upon facsimile or email transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 12/29/2012

REDACTED

Arthur S. Hengerer, M.D.
Chair
State Board for Professional
Medical Conduct

STATE OF NEW YORK: DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

CONSENT

OF

AGREEMENT

RICHARD ELLENBOGEN, M.D.
CO-11-11-8111-A

RICHARD ELLENBOGEN, M.D., (Respondent), representing that all of the following statements are true, deposes and says:

That on or about September 26, 1989, I was licensed to practice medicine in the State of New York and issued license number 104784 by the New York State Education Department.

My current address is 9201 Sunset Blvd., Suite 202, Los Angeles, CA 90069 and I will advise the Director (Director) of the Office of Professional Medical Conduct (OPMC) of any change of my address within thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with two (2) Specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit A, is attached to and part of this Consent Agreement.

I do not contest the two (2) Specifications, and I agree:

to never activate my registration to practice medicine as a physician in New York state.
[Limitation on registration or issuance of any further license pursuant to Public Health Law Section 230-a(6)].

I stipulate that my failure to comply with any conditions of the Consent Order shall constitute misconduct as defined by New York Education Law § 8530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and the Consent Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to New York Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that the Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, or upon facsimile or email transmission to me or my attorney, whichever is first. The Consent Order, this Consent Agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department of Health website.

I stipulate that the proposed sanction and Consent Order are authorized by New York Public Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, administratively and/or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director, OPMC, and the Chair of the Board each retain complete discretion either to enter into the proposed Consent Agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

AFFIRMED:

DATED: 12/20/12

REDACTED

RICHARD ELLENBOGEN, M.D.
Respondent

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 12/22/12

REDACTED

MARK A. LEVIN, Esq.
Attorney for Respondent

DATE: 12/24/12

REDACTED

MICHAEL G. BASS
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 12/28/12

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT A

IN THE MATTER
OF
RICHARD ELLENBOGEN , M.D.
CO-11-11-6111-A

STATEMENT
OF
CHARGES

RICHARD ELLENBOGEN, M.D., Respondent, was authorized to practice medicine in New York state on September 26, 1969, by the issuance of license number 104764 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 25, 2011, the Medical Board of California, Department of Consumer Affairs, State of California, (hereinafter "California Board"), by a DECISION based on the STIPULATED SETTLEMENT AND DISCIPLINARY ORDER (hereinafter "California Order"), ORDERED that Respondent's Physician and Surgeon's certificate be publicly reprimanded and required Respondent to complete a course in medical record keeping. In the CULPABILITY section of the California Order, Respondent agreed that, if the matter proceeded to hearing, the Attorney General of California would be able to present a *prima facie* case that in 2007, Respondent failed to maintain adequate and accurate records for three (3) patients, in that he did not document and record in the patients' records the complaints, his assessments and/or treatment plans.

B. The conduct resulting in the California Board disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law Sec. 6530(32) (failure to maintain a record).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A and B.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and B.

DATED: *Nov. 28*, 2012
Albany, New York

REDACTED
PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct